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Confraternities' Constitutions and *Patronato Real* in 18th-century Lima

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Carlos Sánchez-Raygada

Confraternities' Constitutions and *Patronato Real* in 18th-century Lima*

In March 1761, twenty-nine confraternities of Lima sent to the Council of the Indies their fundamental documents and constitutions for inspection. Arizmendi's study is mainly based on the resulting document, kept in the Archivo General de Indias (Sevilla). This accounts for the prominence of the legal perspective in this monograph, an approach rarely used in the historiography on confraternities, which has focused mostly on the religious, social, or economic dimensions of the institution.

The book is divided into four chapters. The first provides an introduction to the social and religious nature of confraternities as an institution and identifies its essential elements governed by canon law, such as the property regime, the admission of members, and the holding of meetings. The second chapter contains some basic information on the history of the Lima diocese and the spread of the confraternities. In the third chapter, Arizmendi analyses the historical sources based on the categories discussed in the first chapter and notes some questions that he considers striking, such as the comparison of the term »cofradía« with others such as »hermandad«, »gremio« or »esclavitud«. The fourth and last chapter discusses the pertinent civil and canon law norms, both papal and those of the *derecho indiano*, that regulated the confraternities. Transcripts of the constitutions constitute the final appendix of the book.

Arizmendi's study illuminates how confraternities were subject to both civil and ecclesiastical authority. Their social and economic importance aroused the interest of secular authorities, while the purpose of worship made them subject to ecclesiastical provisions. Likewise, the *Patronato regio* determined the scope of the permits granted by both church and king. Law 25, title IV, book I of the *Recopilación de Leyes de las Indias* provided that all confraternities had to have an ecclesiastical and a royal license. The bishop recognized them either explicitly, in the form of a license, or implicitly, for example by authorizing them to collect alms. Although the *Recopilación* ordered that authorization was necessary for the confraternities to operate, in practice, many confraternities carried out their activities without a license. There were confraternities that acted on the margins or even in direct opposition to the dispositions of canon law, as was the case of the lay confraternities established in nunneries.

The Crown, too, exercised its authority in this matter, even going so far as to suppress some confraternities that did not comply with what was ordered. In fact, the constitutions or statutes of the Lima confraternities studied by Arizmendi were submitted for royal approval because the confraternities feared that they would otherwise not be able to continue with their activities. In their responses to the Council of the Indies' request, some stewards maintained that their confraternities were so recent that they had not had time to request royal approval. Others indicated that constitutions and approvals had been lost in earthquakes and other incidents.

The author concludes that the provisions of the civil authority reinforced the effectiveness of canon law; in Arizmendi's words, they were »secundum canonem«. Specifically, the civil authority rejected those clauses in the confraternities' constitutions that claimed that the confraternity was exempt from ecclesiastical jurisdiction, a strategy by which the confraternities aimed to avoid the control exercised through pastoral visits. The political authority also recognized that any surplus money was destined for sacred worship. In this way, the religious character of the confraternities was respected, despite the interest in strengthening civil

* Emilio Luis Arizmendi Echecopar, Las cofradías en la Lima del siglo XVIII. Un estudio de derecho indiano, Lima: Sociedad de Beneficencia de Lima 2018, 413 p., ISBN 978-612-47862-0-2

jurisdiction. Accordingly, the public utility of the confraternities and the need to maintain social order were presented as a reason to demand the intervention of the Crown. In my opinion, Arizmendi's study points to the fact that the ecclesiastical policy applied in the Andean region at the end of the 18th century was a reform promoted by the Crown, but supported by the bishops. In this sense, this book provides a counterpoint to other investigations that perceive the Bourbon reforms as a frontal attack on the powers of the clergy and religious corporations.

After the analysis of the constitutions, the author presents a systematic exposition of their content, identifying the most problematic aspects. Noteworthy is the inclusion of papal norms and a previously unpublished source such as the procedure followed by the Council of the Indies in this case. The reader may require more information regarding each of the confraternities, but this constitutes a task that the author himself has made a start on by presenting some cases he found in the ecclesiastical archives in his footnotes.

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George Rodrigo Bandeira Galindo

El muy largo siglo XIX del derecho internacional*

La calificación del siglo XIX como »largo«, frecuente en la historiografía contemporánea, encubre una duración que va mucho más allá de la periodización que lo ubica entre fines del siglo XVIII y principios del siglo XX. El siglo XIX también es »largo« (en realidad, »muy largo«), como un estrato de tiempo que se hace visible de muchas maneras: uno puede sentir su vigoroso impacto desde un punto de vista social, económico, científico y jurídico, incluso hoy, en el siglo XXI. Jürgen Osterhammel recordó con razón en su monumental historia del siglo XIX, *Die Verwandlung der Welt*, que la visión que tenemos del siglo XIX todavía está muy influida por la percepción que los seres humanos de la época tenían del tiempo en que estaban viviendo. En otras palabras, la forma en la que entendemos, pensamos y nos apropiamos del siglo XIX de muchas maneras se extiende retroactivamente a ese mismo período.

El libro *International Law in the Long Nineteenth Century (1776–1914). From the Public Law of Europe to Global International Law?*, editado por Inge Van Hulle y Randall Lesaffer, califica explícitamente el siglo XIX como »largo«. En efecto, la mayoría de los capítulos que lo componen también confirman, en muchos sentidos, la persistencia del »muy largo« siglo XIX en la percepción que tenemos del derecho internacional hasta hoy.

En su introducción, los editores clarifican que es necesario explorar el siglo XIX más allá de la cuestión de la relación entre derecho internacional e imperio, aunque no ignoran la importancia de este tema. Por lo tanto, el libro está organizado en tres secciones que evidencian la opción por ampliar los temas usuales de investigación relacionados con el período: »Derecho internacional y revolución«; »El derecho internacional y el imperio« y »El surgimiento del derecho internacional moderno«.

La primera sección consta de tres capítulos, a cargo de James Crawford, Camilla Boisen y Viktorija Jakjimovska, que tratan, respectivamente, del tema del *status* de Napoleón en el período de 1814 a 1815, de la lectura de Edmund Burke acerca de los acontecimientos de la Revolución francesa y del papel del derecho común de la Europa y, por

* Inge Van Hulle, Randall Lesaffer (eds.), International Law in the Long Nineteenth Century (1776–1914). From the Public Law of Europe to Global International Law? (Studies in the History of International Law), Leiden: Brill/Nijhoff 2019, IX + 232 p., ISBN 978-90-04-39114-7